



# **15<sup>th</sup> Legislative Assembly of the Northwest Territories**

## **Standing Committee on Governance and Economic Development**

Report on the Review  
of Bill 5, *Tlicho Community  
Government Act*

Chair: Mr. Paul Delorey

SPEAKER OF THE LEGISLATIVE ASSEMBLY

Mr. Speaker:

Your Standing Committee on Governance and Economic Development is pleased to provide its Report on the Review of Bill 5, *Tlicho Community Government Act*.

Paul Delorey, MLA  
Chairperson

**STANDING COMMITTEE ON  
GOVERNANCE AND  
ECONOMIC DEVELOPMENT  
REPORT ON THE REVIEW OF BILL 5,  
*TLICHO COMMUNITY GOVERNMENT ACT***

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The Standing Committee on Governance and Economic Development is pleased to report on its review of Bill 5, *Tlicho Community Government Act*.

The Committee heard from members of the public on Bill 5 on May 11, 2004 in Rae, and on May 13<sup>th</sup> in Yellowknife. Public hearings with the Minister took place in Yellowknife on May 10<sup>th</sup> and May 14<sup>th</sup>.

The Committee would like to thank all the individuals who took the time to prepare submissions or to make presentations at our public hearings, and in particular those who traveled from Gamètì, Wekweètì and Whatì. The Committee would also like to thank the Minister and his staff for presenting the Bill.

The *Tlicho Community Government Act* is an unusual Bill in that it flows out of a three-party agreement that, barring unforeseen circumstances, will be adopted as law by federal settlement legislation and will be constitutionally protected under section 35 of the *Constitution Act, 1982*. This Assembly has already made provision to adopt the *Agreement* as territorial law through the *Tlicho Land Claims and Self Government Agreement Act*, which was passed last fall.

Bill 5 is intended to fulfill the GNWT's obligation under Chapter 8 of the *Tlicho Agreement* to introduce community government legislation for Behchokò, Gamètì, Whatì, and Wekweètì in keeping with the model agreed to by the Dogrib Treaty 11 Council, the GNWT and the Government of Canada. The *Agreement* sets out a number of provisions that must be included in the legislation, in particular the composition and jurisdiction of the community government councils. As a result, there is very little latitude for the Legislative Assembly to make major changes to this Bill without, in effect, repudiating the *Agreement* and its own settlement legislation passed last fall.

The Committee heard from several elders and leaders in Rae, including delegations from Gamètì, Wekweètì and Whatì, who spoke of the importance of the Bill and the tremendous amount of work that has been done by many people to get to this stage of implementing the *Tlicho Agreement*. The presenters unanimously gave their unconditional support to Bill 5 and asked that it be passed as soon as possible. In the words of one of the presenters, [translation]:

*Today we are talking about this Bill that we have been working on for many years. We want this Bill to pass as soon as possible. We talk about our young people, and those of us who are from the surrounding isolated communities have a lot of young people in our communities. We are doing this for them.*

In Yellowknife, the Committee heard from two Metis local representatives who asked that the passage of this Bill be postponed until the rights of Metis in the

North Slave region can be addressed. There are unresolved issues within that community that have delayed articulation and recognition of their treaty and aboriginal rights. It is to be hoped that once these rights have been articulated, the outstanding concerns can be resolved and the rights of all aboriginal people within the North Slave can be exercised on a collaborative basis.

As required by the *Agreement*, Bill 5 provides that the Chief and at least half of the councilors in each of the four community governments must be Tlicho Citizens. Only Tlicho Citizens may vote for the Chief. The Committee received two written submissions that raised concerns about whether this guaranteed representation would violate the rights of non-Tlicho Citizens, in particular their democratic, equality and mobility rights under the *Canadian Charter of Rights and Freedoms*. One of the submissions also questioned why the community governments were being established by GNWT as opposed to Tlicho Government legislation, and suggested that it would be more efficient if all NWT communities were covered by a single piece of legislation.

As previously explained, the Committee has very little room to recommend major changes to this Bill without effectively asking the parties to go back to the negotiating table, something they are not likely to agree to at this stage. The Committee does not have a position on guaranteed representation for Tlicho Citizens, and notes that it is impossible to predict with any certainty whether the

courts, in the wake of a *Charter* challenge, would uphold this guaranteed representation model and agree that the three parties arrived at an acceptable balance between the respective rights of Tlicho and non-Tlicho. Some Committee Members suggested that this community government model was a good compromise by all parties that was apparently intended to avoid the potential divisiveness and inefficiencies of having separate local governments for Tlicho and non-Tlicho Citizens.

One member of the Committee voiced further concerns regarding the availability of land in the settlement region for future economic development. In keeping with the *Agreement*, Bill 5 places a 20-year moratorium on selling community government lands. Following the 20-year period, the community governments will be able to transfer fee simple title, with voter approval. The Minister advised that lands would still be available for lease in accordance with past practices in this regard.

The clause by clause review of Bill 5 took place on May 14. Seven amendments to correct minor oversights and to reorganize the schedules were agreed to at that time.

Following the Committee's review, a motion was carried to report Bill 5, *Tlicho Community Government Act*, to the Assembly as ready for Committee of the Whole as amended and reprinted.